

Sheldon Eisenberger (SE-2021)
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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

FIDELITY BROKERAGE SERVICES LLC,

Plaintiff,

-against-

MARSHALL CARO, WALTER RAQUET,
INDII.COM USE, LLC and BILL ROTHFARB,

Defendants.

Case No. 10-CV-5893 (BSJ)

**NOTICE OF MOTION TO
DISMISS COMPLAINT**

PLEASE TAKE NOTICE, that upon the accompanying Declaration of Sheldon Eisenberger, dated October 19, 2010, and the exhibits annexed thereto, and upon the compliant in this action, defendants Marshall Caro and Indii.com USE, LLC will move this Court, the Honorable Barbara S. Jones, United States District Judge, at the United States Court House, 500 Pearl Street, New York, New York 10007, on a date and at a time to be set by the Court, for an Order: (a) pursuant to Fed. R. Civ. P. 12(b)(1), dismissing the complaint for lack of subject matter jurisdiction; (b) pursuant to 12(b)(6) dismissing the complaint for failure to state a claim for relief; and (c) granting the moving defendants such other and further relief as the Court deems just and proper.

PLEASE TAKE NOTICE that answering papers, if any, should be served in

accordance with the briefing schedule ordered by the Court.

Dated: New York, New York
October 18, 2010

THE LAW OFFICE OF SHELDON EISENBERGER
Attorneys for Defendants Marshall Caro and Indii.com
USE, LLC

By: /s/ Sheldon Eisenberger
Sheldon Eisenberger (SE-2021)
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